

INFORMATION FOR DEVELOPERS

Land Drainage Act 1991 Section 23 Consents

The Internal Drainage Board has Powers to control development which affect watercourses within the Internal Drainage District under Section 23 of the Land Drainage Act 1991. Written Consent of the IDB is required to:

- Erect any mill dam, weir or other like obstruction to the flow of any Ordinary Watercourse, or raise or otherwise alter any such obstruction; or
- Erect any culvert that would be likely to affect the flow of any Ordinary Watercourse, or alter any culvert in a manner that would be likely to affect any such flow.

The procedure for application is specified in Section 23 (2)–(5) of the Land Drainage Act 1991 and is as follows:

- The IDB may charge an application fee, currently £50;
- Consent is not to be unreasonably withheld;
- Consent shall be deemed to have been given if it is neither given nor refused in writing within two months of whichever is later of –
 - the day on which the application is made; or
 - if an application fee is required to be paid, the day on which the liability to pay the fee is discharged.

The period cannot be extended by agreement.

If the question arises whether the consent is unreasonably withheld then arbitration is available, the arbitrator to be appointed either by agreement or by appointment of the President of the Institution of Civil Engineers.

Any works carried out without consent under Section 23 of the Land Drainage Act constitute a nuisance and the IDB may serve Notice requiring the nuisance to be abated within a specified period.

The Notice may be served on:

- the person who carried out the work if he has the power to remove the obstruction at the time when the notice is served;
- in any other case, the person having power to remove the obstruction.

If any person acts in contravention of, or fails to comply with any Notice

- they shall be guilty of a criminal offence.
Maximum Fine: Level 5 (currently £5,000) plus a daily penalty for continuing offences; and
- the IDB may carry out the required work and recover costs.

To determine whether the watercourse where the works are planned is within the district and a board maintained drain, in the first instance consult the Clerk & Engineer at the drainage office by telephone, fax or email. The office is staffed normally on Monday to Friday during normal office hours 9.00am to 5.00pm.

To apply for Consent please complete and return the application form FD1 with the following supporting information:

- Detailed Location Plan, Drawings and Sections
- £50 Application Fee with cheque made out to the relevant IDB

The Board will normally determine the consent within 28 days of receipt of the application.

INFORMATION FOR DEVELOPERS

Land Drainage Act 1991 Section 66 IDB Byelaw Consent

The Internal Drainage Boards have powers to control development alongside adopted watercourses within the Internal Drainage District under powers and authority vested in them through byelaws under Section 66 of the Land Drainage Act 1991.

- The IDB does not charge an application fee for Byelaw Consents.

Examples of some of the important Byelaws are listed below. For full details of arbitration and other matters relating to the IDB Byelaws please refer to the booklet directly.

If any person acts in contravention, or fails to comply with, any byelaw made under Section 66 of the LDA 1991 the person shall be guilty of an offence and liable, on summary conviction to a fine of up to £5,000 and the possibility of a further fine of £40 for every day the contravention continues. The Board may also take relevant steps to remedy the contravention and recover the expenses incurred.

To determine whether the watercourse where the works are planned is within the district and a board maintained drain, in the first instance consult the maps on the website or for more detail contact the drainage office by telephone, fax or email.

To apply for Consent please complete and return the application form with the following supporting information:

- Detailed Location Plan, Drawings and Sections

The Board will normally determine the consent within 28 days of receipt of the application.

Byelaw 3

No person shall, without the previous consent of the Board, for any purpose, by means of any channel, siphon, pipeline or sluice or by any other means whatsoever, introduce any water into the District or, whether directly or indirectly, increase the flow or volume of water in any watercourse in the District.

Byelaw 6

No person shall, without the previous consent of the Board, take any action, or knowingly permit or aid or abet any person to take any action to stop up any watercourse or divert or impede or alter the level of or direction of the flow of water in, into or out of any watercourse

Byelaw 10

No person without the previous consent of the board shall erect any building or structure, whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 8m of the landward toe of the bank where there is an embankment or wall or within 8m of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 8m of the enclosing structure.

Byelaw 17

No person shall without the previous consent of the Board -

- (a) place or affix or cause or permit to be placed or affixed any gas or water main or any pipe or appliance whatsoever or any electrical main or cable or wire in or over any watercourse or in, over or through any bank of any watercourse;
- (b) cut, pare, damage or remove or cause or permit to be cut, pared, damaged or removed any turf forming part of any bank of any watercourse, or dig for or remove or cause or permit to be dug for or removed any stone, gravel, clay, earth, timber or other material whatsoever forming part of any bank of any watercourse or do or cause or permit to be done anything in,

to or upon such bank or any land adjoining such bank of such a nature as to cause damage to or endanger the stability of the bank;

- (c) make or cut or cause or permit to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any watercourse or in or through any bank of any watercourse;
- (d) erect or construct or cause or permit to be erected or constructed any fence, post, pylon, wall, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other building or structure whatsoever in, over or across any watercourse or in or on any bank thereof,

Provided that this Byelaw shall not apply to any temporary work executed in an emergency but a person executing any work so expected shall, as soon as practicable, inform the Board in writing of the execution and of the circumstances in which it was executed and comply with any reasonable directions the Board may give with regard thereto.

Clerk and Engineer to the Board:

M D Watson CEng

Upper and Lower Medway Internal Drainage Board's

17, Albion Place

Maidstone

Kent

ME14 5EQ

T: 01622 758345

F: 01622 693665

Email: enquiries@medwayidb.co.uk